

**STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS**

COMMISSIONER OF EDUCATION

.....

Student O. Doe

v.

Narragansett School Department

.....

DECISION

Held: The Appeal must be denied and dismissed and the actions of the school district are affirmed.

Date: July 2, 2010

Travel of the Case and Jurisdiction

This is a grade promotion case. Jurisdiction is present under R.I.G.L.16-38-1 and R.I.G.L.16-39-2.

Positions of the Parties

The School District

The respondent school district has concluded that the student in this case should not be promoted to the fifth grade. The district has suggested, however, that the student might be allowed to move on to fifth grade if he is successful in the district's free summer school program. The district submits that this student's numerous absences and frequent tardiness, along with his subpar academic progress during the school year, has left the district with little alternative to the decision it has made not to promote this student to the fifth grade.

The Parents

The petitioning parents contend that the student is ready for fifth grade and that the school district should have advised them earlier that the student was at risk of not being promoted. The parents further contend that their child's absences were caused by an ongoing medical problem that was not taken into full account by the school district.

Findings of Fact

1. The record shows that that as of June 10, 2010 the student had been absent for 58 days, tardy for 23 days and had been sent home early from school 8 times.¹ His below par academic progress seems to reflect the effect of this significant non-attendance.² While it must be said that this student has been successful in some academic areas his overall performance is marked by some significant deficiencies.³

Conclusions of Law

While the commissioner has more authority than a court does to review an academic decision, in most cases review of a local grading decision is limited to determining whether the academic decision was arbitrary, contrary to state-wide academic policy, incorrectly computed, or made in bad faith.⁴

¹ Exhibit Q.

² Exhibits J, K, L, M, H, and I.

³ See: Exhibit P. "Fourth Grade Summary Report 2009-2010"

⁴ *Feit vs. Providence School Board*, Commissioner of Education, February 25, 1992. *Jane B.B. Doe v. Warwick School Committee*, Commissioner of Education, June 10, 1998.

Discussion

From the record before us we tend to agree with the student's parents that the school district could have given them more advanced warning that this student was at risk of not being promoted. It also seems to us that the parents and the school district together could have invested more effort in addressing in a more timely fashion this student's attendance problems. Still, the issue before us is whether or not we should overturn the tentative decision of the local school district not to promote this student to fifth grade.

We have closely examined the testimony and the documents that have been submitted at the hearing in this matter. The record before us fully supports the conclusion of local school authorities to the effect that this student, based upon the student's efforts during the regular school year, is not eligible to be promoted to fifth grade. This conclusion is based upon the student's academic performance which is frequently marginal or below the established standards. We share the concerns of the school district that promoting this student at this time could put him at further academic risk. We are sure that this student is capable of great success provided that his present academic difficulties are addressed in a timely manner.

Conclusion

The Appeal must be denied and dismissed and the actions of the school district are affirmed.

APPROVED:

Forrest L. Avila, Hearing Officer

Deborah A. Gist, Commissioner

July 2, 2010
Date